OBSERVANCE OF THE LEGAL PROTECTIONS FOR WOMEN IN ARMED CONFLICTS: A TERRIBLE BEAUTY?

Ibrahim Abdullahi (FRHD) LLB, BL, LLM, PH.D
Usmanu Dan Fodio University, Sokoto. Email: extrapa ge2014@gmail.com

Abstract
Modern armed conflicts are employed in a wide array of operations that range from peacetime riot control to outright international armed conflicts. Women fall among the vulnerable group in the society especially during period of armed conflicts. This paper focuses its attention on women and ex-rays the observance of the legal protection for women in armed conflicts, steps taken towards undertaking the protection, measures of the protection in terms of both international and non-international armed conflicts, its observance as well as the consequences of lack of observance. The paper similarly assesses the state of knowledge and violations and notes that although there have been many developments in the legal parlance, the issue is not always moving in the right direction in terms of observance and thence a terrible beauty.

1.0 INTRODUCTION
War and or armed conflict do not spare women. Mortar bombs fall from the sky, bullets rip through houses, water and provisions are cut off. Trying to protect women in such situation is a formidable task. In recent years, the attention paid to violations against women in armed conflicts has reached unprecedented levels. Barely a week goes by without a story in the news media or a report of a non-governmental organization documenting the problems. The subject has also pervaded all areas of the United Nations, from the works of the Security Council to the Special Representatives of the Secretary General and from the World Health Organization to the Adhoc-International Criminal Tribunals.

Legal efforts to protect women in wartime or during period of armed conflicts have been under way since the beginning of the century. In recent decades, government and institutions have produced declarations, conventions and other legal texts which would ensure the primacy of women’s right in even the worst of circumstances. The law of armed conflict for instance grants women general protection as civilian persons and requires that women members of the armed forces shall in all cases benefit from treatment as favorable as that granted to men. Besides this basic protection, women are similarly granted specific protection including, protection against outrages upon personal dignity and in particular against rape, enforced prostitution and any form of indecent assault, the protection against expectant mothers, maternity cases and mother of infants, and the rule that women deprived of liberty i.e. civilian internees or prisoners of war, must be confined in separate quarters from male internees and must be under the immediate suppression of women.¹

Notwithstanding the declarations, conventions and other legal texts which were churned out to ensure the primacy of women’s right in armed conflicts, there are considerable

discrepancies between those detailed provisions worked by experts and the daily life, law and the reality of sufferings. What can be done to influence the behavior of warring parties? What are the challenges? And what lessons can be learnt from practice and how to remedy the situation becomes the basic object of this paper.

A convenient stating point in the discus of this paper would be to attempt to define what is meant by armed conflict.

2.0 WHAT IS ARMED CONFLICT?
The most authoritative definition of armed conflict is contained in the International Criminal Tribunal for Yugoslavia (ICTY) Appeal Chambers decision on jurisdiction in the TADIC case\(^2\) to the effect that:

"...An armed conflict exists whenever there is a resort to armed force between states or protracted armed violence between government authorities and organized armed groups or between such groups within the state. International humanitarian law applies from the initiation of such armed conflict and extends beyond the cessation of hostilities until a general conclusion of peace is reached, or, in the case of internal conflicts, a peaceful settlement is achieved. Until that moment, international humanitarian law continues to apply in the territory of the warring states or, in the case of internal conflicts, the whole territory under the control of a party, whether or not actual combat takes place there.\(^3\)

This definition has since being used several times by the ICTY’S Chambers and by other international bodies\(^4\)

3.0 INTERNATIONAL HUMANITARIAN LAW AND WOMEN: A BRIEF HISTORY OF LAW MAKING

International humanitarian law came into being to limit human suffering in times of armed conflicts and to prevent atrocities. The first instruments of international humanitarian law were motivated by the principles of humanity. Conventional origin of the principle of humanity may be found in the preamble of the St Petersburg declaration of 1868. The declaration through its following preamble left a mark and also left the first principle of the law of war or armed conflict as follows:

"Considering that the only legitimate object to accomplish during the war is to weaken the military forces of the enemy; that for this purpose it is sufficient to disable the greatest possible number of men; that the object would be exceeded by the employment of arms which uselessly aggravate the suffering of disabled men or render their death inevitable; that the

\(^2\)ICTY, Prosecutor VsDuskoTadic, Appeals Chambers decision of 2\(^{nd}\) October 1995.

\(^3\)Ibid, at page 70.

employment of such arms would therefore be contrary to the laws of humanity.\textsuperscript{5}

This general customary principle was later embodied in the annexure to the 1899 Hague Convention II\textsuperscript{6} and 1907 Hague Convention IV. To this extent, the St. Petersburg declaration represents customary international law and would be binding upon all states and not merely those who were formally parties to it and its general participation clause notwithstanding. However, while the focus of early international humanitarian law was on minimizing direct causes of human suffering among participants in armed conflicts, the discipline itself was never restricted in such a way. Indeed, international humanitarian law has its foundation in general exhortations of the Martens clause and, originally, in the call of the International Committee of the Red Cross (ICRC) founder, Henry Dunant, to “Press forward in a human and truly civilized spirit, the attempt to prevent, or at least to alienate, the horrors of war.”\textsuperscript{7} The Martens clause which first appeared within the preamble to the Hague Convention IV of 1907 provides as follows:

“Until a more complete Code of the laws of war has been issued, the high contracting parties deem it expedient to declare that in case not included in the regulations adopted by them, the inhabitants and the belligerents remains under the protection and the rule of principles of the law of nations, as they result from this usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience”

The Martens clause predates the general principle of public international law resulting from the steamship Lotus case.\textsuperscript{8} The effect of the Martens clause is two folded and limited to international agreements that deal with the law of armed conflicts. Firstly, in areas where the law of armed conflicts treaties is silent, customary, international law governs the situation, secondly, what is not specially prohibited is not necessarily permitted. Different versions of the Martens clause appear throughout the corpus of the law of armed conflict.\textsuperscript{9} The most recent expression of this clause reads thus:

“In cases not covered by this protocol or by other international agreements, civilians and combatants remain under the protection and authority of the principles of international law derived from established customs, from the principles of humanity and from the dictates of public conscience.”\textsuperscript{10}

Moreover, the first code for the conduct of warfare, the famous Lieber Code\textsuperscript{11} adopted by Abraham Lincoln for the use of his Union forces in the American Civil War in 1863, is also quite general in nature in its scope. Contemporary international humanitarian law was born with the signing of the 1864 Geneva Convention for the Amelioration of the condition of the wounded in

\textsuperscript{5} Quoted from Jean P, “Development and Principles of International Humanitarian Law” P. 50
\textsuperscript{6} See Article 23(e) of the regulations
\textsuperscript{7} Dunant H, Un Souvenir de Solferino, (1802) 2\textsuperscript{nd} Edition Joel CherbuliezLibraire, Geneva and Paris.
\textsuperscript{8} (1927) PCIJ, Serial A. No. 10 to the effect that what is not specifically prohibited is permitted.
\textsuperscript{10} See Article 2, Additional Protocol 1 of 1977.
\textsuperscript{11} 1863. These are instructions for the Government of armies of the United States of America in the field.
Ibrahim Abdullahi 2014, 2(2):45-57

armies on the field. This development was a response to a Swiss Philanthropist, originator of the International Relief Agency, the Red Cross, who, following his experience at the battle of SOLFERINO in 1859 made a proposal for the establishment of an international body for the aid of the wounded in wartime.\textsuperscript{12} Since 1864 a tremendous number of international conventions declarations, treaties, protocols, acts, agreements and resolutions as well as regional and sub-regional instruments relating to international humanitarian law have been adopted. On 2\textsuperscript{nd} August 1864, the Geneva Convention was finally adopted. The epoch making Geneva Convention of 1864 influenced the evolution of the law of nations. States for the first time in history, accepted in a formal and permanent document, a limitation of their own powers, not for the sake of the individual and or altruistic ideals. For the first time ever, war or armed conflict yielded to law. In less than a century, the principles of the Geneva Convention was gradually extended to other categories of war victims and this extension led to the rigging of the text of the Hague. It is precisely for this reason that it is called the mother of Convention.\textsuperscript{13}

The first revision of the treaty was made in 1906 when the number of its articles was increased from 33 but without modification of its essence. It was applied quiet fully during World War I except with respect to the repatriation of medical personnel from which the belligerents departed by keeping a considerable number of doctors and nurses (women inclusive) in prison camps to care for their wounded compatriots. The second revision which was made in 1929 took into account the development of medical aviation and eliminated the section \textit{omnness} clause in the proceeding version, a provision under which the convention was not applicable unless the belligerents were parties to it.\textsuperscript{14}

The principle of making medical personnel in captivity and returning them to their army of origin was maintained but the ban on their retention was to be valid only in the absence of an agreement to the contrary. The Geneva Convention was generally well respected during World War II, but the belligerents took advantage of the clause introduced in 1929, and held doctors and nurses from the opposite sides in prisons of war camps to treat their compatriots. The contention and controversial issue of retaining the medical personal received a compromise solution during the diplomatic conference of 1949.\textsuperscript{15}

Essentially, discuss on the Geneva Conventions becomes imperative here as it lays down the necessary springboard for all other laws meant to at least prevent and reduce death and destruction as far as the hard realities of war or armed conflicts allows.

The first Geneva Convention deals with the wounded and sick members of the armed forces on land. The 2\textsuperscript{nd} Geneva Convention deals with the wounded, sick and ship wrecked members of the armed forces at sea. The 3\textsuperscript{rd} Geneva Convention deals with prisoners of war and the 4\textsuperscript{th} Geneva Convention deals with civilians.

\textsuperscript{14} It was at the diplomatic conference of 1929 that the right of Muslim countries to use a red crescent in place of the Red Cross and also a red lion and the sun of Iran (which later rejected the emblem and returned to a red crescent) was recognized.
\textsuperscript{15} Both Doctors and Nurses thus retained were not to be considered as prisoners of war but were to have the same right as those of prisoners of war, plus certain facilities necessary for the exercise of their profession.
Nigeria has not only ratified the 1949 Geneva Convention and the Additional Protocols of 1977, it has also incorporated the Convention into domestic law by enactment.\(^\text{16}\) It has further enacted the Nigerian Red Cross Society Act,\(^\text{17}\) incorporating the Nigeria Red Cross Society and issued the code of conduct to the Nigerian Armed Forces during the Nigerian Civil War.

### 4.0 WHY PROTECT WOMEN?

The daily lives of many women today are caught up in situations ruled by fear or the threat of destruction and extreme sufferings. The deliberate targeting of women civilians, the destruction of their properties, looting, force displacement, use of women as human shields, rape and other forms of sexual violence,\(^\text{18}\) indiscriminate attacks and other acts of violence\(^\text{19}\) against women unfortunately all are too common in most armed conflicts in the world today. Women today are also actively supplying their men folks in military operations – not by taking up arms but by providing them with the support needed to wage war.\(^\text{20}\) Furthermore, there are women endangered because of their presence amongst the armed forces but who are there completely against their will i.e. abducted for sex or to work and clean in the camps. During the period of their abduction, and often after, these women and girls can be in considerable danger from attacks by the opposing forces as well as their abductors.\(^\text{21}\)

Women have further been under suspicious and targeted for their suspected or actual role of their men folk in order to get to the absent men by intimidating and attacking the women.

Despite these examples of voluntary and involuntary participation of women in armed conflicts as combatants and in supportive roles, some countries and cultures refuse the participation of women in combat roles in the armed forces. The majority of women experience the effects of armed conflicts as part of the civilian population. As members of the civilian population, women suffer direct or indirect effects of fighting which amongst others include lack of food and other essentials needed for healthy survival. Women invariably have to bear greater responsibility for their children and their elderly relatives and often the wider society especially when the men in the family have left to fight, interned or detained and even in worst situations, missing or death or internally displaced or even in exile.

Ironically, many women often do not flee the fighting or the threat of hostilities, because they and their families believe that the very fact that they are women (often with children) will afford them a greater measure of protection from the warring parties. They believe their gender;

\(^\text{17}\) No. 52 of 1960.
\(^\text{18}\) Such as Rape, enforced prostitution, defilement, indecent assault and sexual slavery.
\(^\text{19}\) Such as Sex trafficking, abduction, forced abortions and domestic violence etc.
\(^\text{21}\) The best known and wide scale example of such abduction was that of the so called comfort women in the far east during the second world war – a term which is no way encompasses, the horrific nature of the ordeal to which these women were subject to during their detention by the Japanese military. In recent years, women and girls have also reportedly been abducted by the armed groups in other countries such as Uganda.
their social constructed role will protect them. Some women have been found to harbor and feed soldiers thus being exposed to the risk of reprisals by their opposing forces and placed in difficult and inappropriate situation. Because of the proximity of women to fighting and for the presence of the armed forces, women invariably have to restrict their movements, thus severely limiting their assess to supplies of water, food and medical attention and their ability to tend their animals and crops, to exchange news and information and to seek community or family support.

5.0 THE PROTECTION OF WOMEN IN INTERNATIONAL HUMANITARIAN LAW: GENERAL AND SPECIAL PROTECTIONS IN INTERNATIONAL ARMED CONFLICT

International humanitarian law is a body of law that provides essential protection for those directly affected by an armed conflict. It is respected by the parties to the conflict. Generally international humanitarian law accords women protection on equal footing to those of men. There are equally humanitarian law treaties which recognize the need to give women special protection according to their special needs. This protection is enshrined in the four Geneva Conventions, for the protection of war victims and their Additional Protocols. The Convention and Protocols protect women (and men) as members of the civilian population not taking part in an armed conflict. Women (and men) as members of the armed forces are also protected unless captured by the enemy.

The 3rd Geneva Convention which relates to the treatment of prisoners of war stipulates that prisoners of war shall be treated humanely at all times. Besides this general protection, women are also afforded special protection based on the principle outlined thus:

"Women shall be treated with all the regard due to their sex".

The above principle is followed through in a number of provisions which expressly refers to the conditions of detention of women in prison camps e.g. the obligation to provide separate dormitories for women and men and for separate sanitary convenience. The principle of differentiated treatment for women also resulted in the provision relating to the separate confinement for women from men and the immediate supervision of women by women. Women and men who as members of the civilian population are afforded protection under the 4th Convention relating to the protection of civilians persons in time of war and Additional Protocol

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22 This is however not often the case as the ideologue which justify the use of violence against women (are based) on a particular construction of sexual identity. Masculinity given men the power to control the lives of those around him especially women. Even though women are less likely than men to be victims of index crimes, only women face crimes peculiar to their gender such as Rape, prostitution and sex trafficking, defilement, abduction, abortion and domestic violence.
23 It is been argued rather rightly that international humanitarian law is not the only body of law relevant to situation of armed conflict. Human Rights laws are also applicable. These two bodies of law should not been as mutually exclusive and their methods of implementation should be seen as complementary. 
24 Of 12th August 1949.
28 Ibid. Art 25(4).
29 Ibid. Art 97 and 108 Additional Protocols V, Art 75(5).
1. Women are granted protection against abusive treatment by the parties to the armed conflict and also against the effects of fighting. They are entitled to humane treatment, respect for their lives and physical integrity and to live free from torture, ill treatment, execution and harassment.

In addition to the above general protection, women are accorded special protection under the said Convention and Protocol 1 provides thus:

“Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution or any form of indecent assault”.30

International humanitarian law also lays down special protection for pregnant women and mothers including small children.31 The provision stipulates:

“They shall benefit by any preferential treatment to the same extent as the nationals of the state concerned”.32

Pregnant women and nursing mothers shall be given additional food in proportion to their physical needs.33 Pregnant women and mothers with dependent infants who are detained or interned should have their cases attended to with utmost priority,34 and maternity cases must be admitted to any institution where adequate treatment can be given.35

In the conduct of hostilities, the parties to an armed conflict most at all times distinguish between the civilian population and combatants and between civilians objects and military objectives and accordingly shall direct their operations only against military objectives.36

6.0 PROTECTION OF WOMEN IN NON-INTERNATIONAL ARMED CONFLICTS

Most armed conflicts today are non-international in nature as they take place within the borders of states and are waged between a state and organized non-states armed group(s) or among such groups themselves. In the case of armed conflict not of an international character, occurring in the territory of one of the high contracting parties, each party to the conflict shall be bound to apply as a minimum, the following provisions (common Article 3):

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other similar cause shall in all circumstances be treated humanely without any adverse distinctions founded on race, colour, religion, or faith, sex birth or wealth or any other similar criteria. To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above mentioned persons:

(a) Violence to life and persons, in particular murder of all kinds, mutilation, cruel treatment and torture;
(b) Taking of hostages;

30 See Articles 75 & 76 of the Additional Protocol 1 and Art, 27(2) of the 4th Geneva Convention relating to the protection of civilian persons in times of war.
31 Children in this context are generally considered to be children under seven years of age.
32 Article 38, 4th Geneva Convention.
33 Ibid. Article 89.
34 Article 76(2), Additional Protocol 1of 1977.
Outrages upon personal dignity in particular humiliating and degrading treatments;
(d) The passing of sentences and the carrying out of execution without previous judgment pronounced by regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized people.

2. The wounded and sick shall be collected and cared for.

Women (and men) who do not take part in hostilities in non-international armed conflict do not have prisoner of war status when they fall into enemy hands. In such situation, they are to be afforded the fundamental guarantee defined by Article 4 of the Additional Protocol II relating to the protection of victims of non-international armed conflict. They are entitled to the same protection as men but person not taking part in such a conflict are protected by Article 3 common to the four Geneva Conventions.

Even though no special provision relating to special treatment is contained therein, the rule establishes fundamental guarantees for the treatment of all persons not taking part in the hostilities. Similarly, Additional Protocol II stipulates in general terms that:

…”Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault are forbidden”.

Protocol II also provides for special treatment of women who are arrested, detained, interned in relation to the hostilities. In such situation, except when men and women of a family are accommodated together, women shall be held in quarters, separated from those of men shall be under the immediate supervision of women.

Women as members of the civilian population are also protected against the effects of hostilities in non-international conflicts. Additional Protocol II stipulates that:

“The civilian population as such, as well as individual civilians shall not be the object of attack”.

7.0 OBSERVANCE OF THE LEGAL PROTECTION OF WOMEN IN PRACTICAL TERMS

Whether there is observance of the legal protection for women in armed conflicts can be seen from the following perspectives:

7.1 SEXUAL VIOLENCE

In fact, the perceived perception that as women you will be safe is often not the reality. On the contrary, women have been targeted precisely because they are women.

The conflict in Bosnia Herzegovina brought world recognition to the issue of rape of women as a means of warfare. Rape, forced prostitution, sexual slavery and forced

37 Article 4(2)(e) Additional Protocol II.
38 Ibid. Article 5(2)(a).
39 Ibid. Article 13.
40 The ICRC assisted for example, large number of mostly elderly and frailled women left behind in the former United Nations protected Areas in Croatia (i.e. UNPAs frequently referred to as the KRAJIMAS). They had been left by their fleeing family members to protect the property and even then elderly and often bedridden women were not free from harassment and attack.
41 Is the unlawful carnal knowledge of women without her consent or with her consent if such consent is obtained by fraud, duress or any form of intimidation. This definition has been criticized as being gender
Impregnation are violated and a violation of international humanitarian law and are now an unprecedented part of the vocabulary of war. In any conflicts, women have been systematically targeted for sexual violence. From Bangladesh to former Yugoslavia, from Berlin to World War II to Nanking under Japanese occupation, from Vietnam to Mozambique, from Afghanistan to Somalia, women and girls have been the victims of sexual violence in armed conflict. It is only possible to give estimates as to the number of victims of sexual violence as not all victims survived and the majority of the victims will never report the violence against them. Even where reports are made, the greatest smaller factor in the rape question is the negative attitude of the police to rape complaints. Researches in South Africa, Zimbabwe, Namibia, Brazil and United States – indicate that police often hear complaints with various misinterpretations, laughing as they recount their obvious traumatic experiences. In BAGOSORA trial judgment, the trial chamber recalled the testimony of several witnesses as follows:

“The bodies of the death were frequently piled near the round blocks and a times were collected by local officials. Female victims were left lying on their backs with their legs spread and stained with semen. Dallaire Saw objects crushed or implanted in virginal, breast cut off, stomach opened and the mutilate genitals of men”.

This sexual violence has a multiple consequence for the mental health of women. At the psychological level, it leads to radical changes in the image that the victims has of herself, in her relation with her immediate social circle and beyond, in the community as whole, and in the way


Rape may not be a new crime as lessons can be learnt from the marauding armies entering the conquered town on a rampage of looting, and raping. See Brown Miller S, Against Our Will: Men, Women and Rape. (Simon & Schuster New York) 1975. Many believed that raped is a crime and can never be justified as a means of war fare or show of power, as a reward for the victorious army or as a lesson for the vanquished unable to protect up their women folk.

Sometimes this may be the basis of broaden political objective of ethnically cleansing in areas or destroying a people.

This is equally true of men and boys although less is known about the extent of this problem.

Many women are generally too afraid to speak of their experiences for the very real fear of ostracism or retaliation by their family or community. Many also believe that no one can help them nor that they have been violated and as there are often no witnesses to the violation as the recent case of KOSOVO and during the period of the NATO air strikes in Chechnya during the Russian Military Campaign, in rural areas of Sierra Leone and in numerous other conflicts around the world.


Americas Watch Criminal Injustice Violence against Women, Brazil, 1999.

Ibid.

Prosecutor VsBagosora et al, case No, ICTRY 98 41 – T 18th December 2008, Para 1908.
in which she sees the past, present and future. It thus has a lasting negative impact on the victim’s perception of herself, of events, and of others. At the community level, it stigmatizes the victim, depriving her of any social status or intrinsic value as a person (she is seen as unfaithful or promiscuous) and thereby modifies relationship with the community with an overall deleterious effect.

The ICRC has long considered sexual violence as a war crime and a serious violation of international humanitarian law.\(^{51}\)

### 7.2 DETENTION

Women are now a day detained as a result of armed conflict often in worse conditions than men. This is because majority of the detainees are men and there are few prisons or places for detention solely for women. In many cases, women detainees are consequently, housed in the main prison and since, they are fewer in number, their section is normally the smallest and lack adequate sanitary and other facilities.\(^{52}\) Detained women face horrific situations including sexual violence. There is a serious rise of pregnancy and gynecological problems and fear of the consequences these may have both for the women in detention and after their release, when they return to their families and communities.

### 7.3 DISPLACEMENT

Horrific armed conflicts that have taken place around the globe have seen displaced women on the increase. Displaced women have been isolated in unsafe areas thus making them fragile as victims of violence, rape and even murder and may arising from these displacements be subject of forcible recruitment into fighting forces. So many cases have arising where women fled without documents and this has an effect on their status.

### 8.0 THE WAY FORWARD

Humanitarian laws remain on the whole, a suitable framework for regulating the conduct of parties to armed conflicts, international or non-international. Treaty and customary laws have developed over the years. Recent experiences have demonstrated the enduring relevance and inadequacy of humanitarian laws in preserving women life and dignity during armed conflicts and thence the need for development in the law. What is required is therefore not only greater compliance with the existing legal framework but the adoption of new rules. There is need to discuss rules where inadequacy is long established.

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\(^{51}\) See the statement before the commission for right of women, European Parliament, Brussels, 18\(^{\text{th}}\) February 1993. CICR a denonce la pratiqué del viol commis par toutes less parties all conflict commeles autres exactions commises a rencontre des civil s. le viol est considéré un crime de guerre et il est grand temps de trouver des solutions per mettant de mettre un terme a ces pratiques in acceptables” – Resolution 2B of the 26\(^{\text{th}}\) International Red Cross and Red Crescent Conference (Geneva 1995). The Conference: (a) expresses its outrage at practices of sexual violence in armed conflicts in particular the use of rape as an instrument of terror, forced prostitution and any other form of indecent assault … and strongly condemns sexual violence, in particular rape, in the conduct of armed conflicts as a war crime and under certain circumstances a crime against humanity, and urges the establishment of strengthening mechanism to investigate, bring to justice and punish all those responsible. See equally ICRC update on the Aide – Memorieun rape committed during the armed conflict in ex-Yugoslavia of 3\(^{\text{rd}}\) December 1992.

\(^{52}\) See Lindsey C. “Women and War” international review of the Red Cross Vol. 82, No. 839 September 2000 pg 572.
The undertaking in Article 1 common to the four 1949 Geneva Conventions to ensure respect for international humanitarian law means that the contracting parties are obliged to help bring about compliance with the Geneva Conventions whenever they are applicable even in conflicts in which those parties are not involved. This provision thus reinforces the responsibility of each contracting state, which besides regulating its own conduct, must act by all appropriate means to ensure that humanitarian law is observed by all other states. This article has been invoked several times by the UN General Assembly, the Security Council and the International Court of Justice, as well as the ICRC. The said undertaking by state parties to the Geneva Convention and the Protocols Additional thereto to respect and ensure respect for those instruments in all circumstances encompasses a wide range of means in addition to those expressly provided for by the international law, for example the appointment of protecting powers or international fact finding commissions. These include diplomatic, confidential or public approaches and public appeals.

There is the need to build more respect for humanitarian law especially amongst weapons bearers through dissemination sessions, first aid courses, advanced courses for commanders, practical support to incorporate IHL into training, education, policy tools such as bilateral declaration and special agreements between parties as it relates to women even in ceasefire and peace agreements.

Reparations for victims of violation are another area in which legal development is urgently required. There is insufficient respect for applicable rules to the practical course of suffering during armed conflicts in recent years as the emphasis has been on developing criminal law procedures to prosecute and punish those who have committed serious violation of humanitarian law; but appropriate means of halting and addressing violation when they occur are still lacking. Reparation is essential for victims to overcome the deeply distressing experience they have had to endure and take up their lives once again. Reparations should be adapted to the circumstances and needs of the victim. Reparation here does not necessary imply financial compensation. Other forms of reparation include restitution, rehabilitation, satisfactory and the guarantee that the violation(s) will not be repeated.

Humanitarian laws in the area of providing adequate protection for displaced persons should be strengthened. Specific legal protection continues to be deficient in this regard. The adoption in 1998 of the guiding principles on internal displacement was a significant step in fortifying the international legal framework for protecting internally displaced persons. Women who fled without documents attesting to their civil status may find it difficult to gain access to

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53 See e.g. A/RES/63/96 (2008).
56 In 1983 and 1984, the ICRC based itself on Article 1 common to the Geneva Convention in issuing formal appeals to the states parties to the Geneva Convention to use their influence with Iraq then at war with one another, and prevail upon them to comply with the laws of armed conflict. In connection with the conflict in the former Yugoslavia alone, the ICRC issued over 50 public appeals, often in response to particularly tragic or deadly events; in order to express its acute concern at the serious violations of an international humanitarian law that were taking place there.
social services or to move freely within the country. Therefore legal development is necessary to ensure the perseverance of the family unit.

Thus the Permanent Court of International Justice held in the Chorzow factory case that;

“Reparation must as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability have existed if that act had not been committed”

Among the different forms of individual reparation, restitution and compensation can be claimed and are most commonly awarded.

9.0 CONCLUSION

Humanitarian law remains as a whole, a suitable framework for regulating the conduct of parties to armed conflicts – international and non-international treaty and customary law have developed over the years, gaps have been filled and ambiguities clarified. Recent experience however has demonstrated the enduring relevance and inadequacy of humanitarian laws in preserving women lives and dignity during armed conflicts. Abuse of women’s right by combatants seems to rise in higher proportion to the number of international laws adopted to ensure women’s safety. Warlords have continued to murder, rape and main women with the aim of conquering the future and the world seems to be turning blind eye to this obvious fact.

\[\text{57} \] Permanent Court of International Justice, case concerning factory at Chorzow, merits, Series A, No. 17, (1928) Deviations from the standard of full reparation are discussed for situations of mass atrocities. See e.g. Ethiopia – Eritrea claims commission, final Award between the State of Eritrea and Federal Democratic of Ethiopia, Eritrea’s damages claim 17th August 2009 Para 22.

\[\text{58} \] Ibid at page 47

This collapse of the social order has paved the way open to lawlessness. Society has slide towards tolerance of such behavior through sheer negligence which in turn violates the principles championed by international humanitarian law since its inception. In truth, women have never before been so poorly protected in practical terms during periods of armed conflicts. The problem has reached such disastrous proportion that appeals for funds to help women in wartime or during period of armed conflict elicit little more than polite murmurs. Until an antidote is found for the murderous violence of internal, regional and international conflicts, women survival will depend largely on the capacity of humanitarian institutions to come to their aid at the right time and with the appropriate means. Indeed this is a terrible beauty.